



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### VALLEY REGIONAL OFFICE

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Secretary of Natural Resources

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David K. Paylor  
Director

Amy Thatcher Owens  
Regional Director

**STATE AIR POLLUTION CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
ROCKINGHAM CO-OPERATIVE FARM BUREAU, INC.  
FOR  
ROCKINGHAM MILLING COMPANY  
Registration No. 81314**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Rockingham Co-Operative Farm Bureau, Inc., regarding Rockingham Milling Company, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable Permit and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Co-Op" means Rockingham Co-Operative Farm Bureau, Inc, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Co-Op is a "person" within the meaning of Va. Code § 62.1-44.3.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" means the Rockingham Milling Company facility, located at 114 Meigs Lane in Rockingham County, Virginia.
7. "FCE" means a full compliance evaluation by DEQ staff.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
9. "O&M" means operations and maintenance.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
11. "Permit" means the minor New Source Review (NSR) permit to operate and construct/modify a feed mill, which was issued under the Virginia Air Pollution Control Law and the Regulations to Co-Op on June 29, 2005.
12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
16. "VEE" means a Visible Emissions Evaluation, as determined by EPA Method 9 (*see* 40 CFR 60, Appendix A).
17. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Co-Op owns and operates Rockingham Milling Company (Facility) in Rockingham County, Virginia. The Facility is the subject of the Permit issued on June 29, 2005, which allows for the operation of a feed mill.

2. On June 25, 2014, DEQ staff conducted a FCE at the Facility. The following observations were made:
  - a. A new, unpermitted dryer was installed and in operation.
  - b. Records for the fabric filters monitoring devices were incomplete.
  - c. Documentation of equipment maintenance was incomplete.
  - d. Operator training records were incomplete.
  - e. Records for operating procedures were incomplete.
3. Condition 1 of the Permit states: "...Any changes in the permit application specifications or any existing facilities which alter the impact of the facility on air quality may require a permit. Failure to obtain such a permit prior to construction may result in enforcement action."
4. Condition 8 of the Permit states: "...Each monitoring device shall be installed, maintained, calibrated and operated in accordance with approved procedures which shall include, as a minimum, the manufacturer's written requirements or recommendations."
5. Condition 32 of the Permit states: "...The permittee shall maintain records of emission data and operating parameters as necessary to demonstrate compliance with this permit. The content and format of such records shall be arranged with the Director, Valley Region. These records shall include...Scheduled and unscheduled maintenance, and operator training. These records shall be available for inspection by the DEQ and shall be current for the most recent five years."
6. Condition 35 of the Permit states: "...The permittee shall take the following measures in order to minimize the duration and frequency of excess emissions, with respect to air pollution control equipment, monitoring devices, and process equipment which affect such emissions...d. Train operators in the proper operation of all such equipment and familiarize the operators with the written operating procedures. The permittee shall maintain records of the training provided including the names of trainees, the date of training and the nature of the training...Records of maintenance and training shall be maintained on site for a period of five years and shall be made available to DEQ personnel upon request."
7. 9 VAC 5-80-1120.A. states: "No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of that permit."

8. 9 VAC 5-80-1210.E. states: "Any owner who constructs or operates a source subject to this section not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a source subject to this section who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."
9. On July 11, 2014, DEQ issued Notice of Violation (NOV) No. AVRO8976 to the Facility for the violations in Paragraph 2 above.
10. On July 23, 2014, DEQ staff met with Facility representatives. The Facility agreed to perform the following actions items (completion dates are listed beside each completed item).
  - a. Submit a permit application for the unpermitted dryer (Completed July 23, 2014);
  - b. Submit an official notification of start-up date for the referenced, unpermitted dryer (Completed July 25, 2014 - Dryer began operation, December 8, 2011);
  - c. Submit a summary of operations, including approximate dryer running time (Completed July 25, 2014);
  - d. Include explanation for new dryer and old dryer emissions (Completed July 25, 2014);
  - e. Update Facility records and contact Mr. Brandon to schedule re-inspection (Reinspection completed July 30, 2014);
  - f. Record operating times per dryer, for both dryers (Dryer currently shut down);
  - g. Written confirmation that the dryer will not be operated until permitted. (Completed July 25, 2014);
11. Based on the results of the July 23, 2014 meeting, the documentation submitted on July 25, 2014, and the July 30, 2014 evaluation, the Board concludes that the Co-Op has violated Permit conditions 1, 8, 32, and 35, 9 VAC 5-80-1120(A) and 9 VAC 5-80-1210(E) as described in paragraph C(2)-C(8).
12. On July 30, 2014, DEQ staff conducted an onsite follow up inspection at the Facility and observed that the violations as described in paragraph C(2)(b-e), have been corrected.
13. On September 3, 2014, DEQ issued a Stationary Source Permit to Modify and Operate to the Facility, which additionally gives authorization for the installation of a second grain dryer.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Rockingham Milling Company, and Rockingham Milling Company agrees to:

1. Pay a civil charge of \$8,028 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Rockingham Co-Operative Farm Bureau, Inc shall include its Federal Employer Identification Number (FEIN) 54-0361980 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, the Co-Op shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Co-Op for good cause shown by Co-Op, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. AVRO8976 dated July 11, 2014. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Co-Op admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Co-Op consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Co-Op declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other

administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Co-Op to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Co-Op shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Co-Op shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Co-Op shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Co-Op. Nevertheless, Co-Op agrees to be bound by any compliance date which precedes the effective date of this Order.

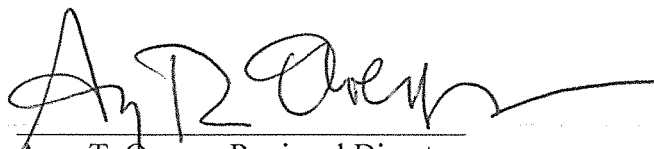
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after Co-Op has completed all of the requirements of the Order;
- b. Co-Op petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Co-Op.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Co-Op from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Co-Op and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Co-Op certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Co-Op to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Co-Op.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Co-Op voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 30<sup>th</sup> day of October, 2014.



Amy T. Owens, Regional Director  
Department of Environmental Quality

Rockingham Co-Operative Farm Bureau, Inc. voluntarily agrees to the issuance of this Order.

Date: 10/30/14 By: Norman L Wenger Gen Mgr  
(Person) (Title)  
Rockingham Co-Operative Farm Bureau, Inc.

Commonwealth of Virginia  
City/County of ROCKINGHAM

The foregoing document was signed and acknowledged before me this 30 day of October, 2014, by NORMAN WENGER who is GENERAL MANGER of Rockingham Co-Operative Farm Bureau, Inc. on behalf of the corporation.

Kelly R Showalter  
Notary Public

7139599  
Registration No.

My commission expires: 9/28/15

Notary seal:

